

## MINUTES

### **WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting held in Commissioners Meeting Room,

Third Floor, Historic Court House,

Boonville, IN

Monday, March 14, 2016, 6:00 PM

**PLEDGE OF ALLEGIANCE:** A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Guy Gentry, President; Jeff Willis, Vice-President; Bill Byers, Doris Horn, Amanda Mosiman, Brad Overton and Richard Reid.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Molly Barnhill, staff.

**MEMBERS ABSENT:**

Roll call was taken and a quorum declared present.

**MINUTES:** Upon a motion made by Doris Horn and seconded by Amanda Mosiman, the Minutes of the last regular meeting held February 8, 2016, were approved as circulated.

The President explained the rules of procedure.

**SUBDIVISION FOR PRIMARY PLAT APPROVAL:**

**PP-16-03 Epworth Lincoln Subdivision** by Evansville Christian School, Inc. David J. Abbott, Board President. OWNER: Epworth United Methodist Church, Inc., Shellie Broshears, Trustee Chairperson; Crossroads Christian Church, Inc., Jack L. Arney, Secretary. 26.07 acres located on the W side of Epworth Rd. 0 ft NW of the intersection of Epworth Rd. (W1050) and Lincoln Ave. (S450), Ohio Twp. *Complete legal on file. (Advertised in The Standard March 3, 2016)*

Jim Morley Jr., Project Engineer; Paul Blair; Krista Lockyear, Attorney; David Abbott, Board President of EVCS; Jack Arney, Secretary of Crossroads Christian Church, were present.

Mrs. Rector stated we are missing 5 green cards; Thomas & Brandi Todrank, Patrick & Patricia Jackson, Stephanie Freiwald, Joseph Goebel, and Stacy Haymaker. She said we do have the white pay receipts showing they were mailed within the 21 day deadline. She said the zoning is Agriculture, "R-2B" Multiple Family Apartment, and they have received a Special Use (SU15) that was approved by the Board of Zoning Appeals to allow a school with supporting facilities (approved 10-26-15). She said there is no flood plain. She said this subdivision consists of four lots ranging from 2.41 acres to 4.56. She said they have a letter from Newburgh Sewer saying

they have capacity to service this facility and they have a letter from Chandler Water stating they have capacity for the water. She said it is a four lot subdivision for Evansville Christian School. Mrs. Rector said the drainage plans were approved by the Drainage Board today with a couple of conditions. She asked Jim Morley to repeat what those conditions were.

Jim Morley Jr. stated the drainage plans were approved today subject to a trash or debris rack installed at the basin discharge pipes of which there are two, and a note on the plat that the pipes will be installed in accordance to the manufacture standards.

Mrs. Rector said they have also asked the Commissioners today for no improvements to Lincoln Avenue and Epworth Road, however they have received a letter back from MPO regarding the traffic impact study that was done. She asked Jim Morley Jr. to explain the letter.

Jim Morley Jr. stated the traffic impact study that was approved by Bobby Howard and the MPO, they got notice back on it today and they have asked for some re-striping work to be done on the center of Epworth Road and the center of Lincoln Avenue where there is an existing double left turn lane on Epworth and an existing striped out area in Lincoln Avenue. He said this morning they received word that they want that re-striped to show that as a left turn lane so they did not have time to get that changed and to Bobby for his approval so the road plan was approved subject to Bobby's review of the painted modifications out in the roadway and the modification to the Certificate of Compliance to include that paint and they will then revise their no improvement letter to say no improvement except paint striping in roadway.

Mrs. Rector said also this is based on phase one of 200 students.

Jim Morley Jr. said that is correct; Bobby has approved that based on what the site review committee has seen so far which is 200 students. He said if the school is expanded in the future it will have to have another building permit which will require another traffic impact study being done at that time.

Mrs. Rector said so any recording of the final plat will be subject to street plans, drainage plans, and any conditions that they put on it today. She said they are requesting the requirement for sidewalks along Epworth Road and Lincoln Avenue. She said she asked Bobby Howard if he had any recommendations and he said no, he would not make a recommendation. Mrs. Rector stated the plat is in technical conformity.

Jeff Willis asked on the sidewalk issue, he knows there are some bike lanes along Lincoln, is it that far or does it end before there.

Mrs. Rector said it ends before that at Epworth.

The President said yes.

Jim Morley said this part of Lincoln was done pre-bike lane ideas. He submitted pictures of the site plan. He said there is an entrance across from Asbury.

The President asked if that is where there are requesting the extra stripping on the turn lanes.

Jim Morley Jr. said yes. He said that entrance is lined up with the Asbury entrance as requested by Warrick County, it had to be lined up or off by 150' so they moved the existing drive that was there so it lined up; this entrance will be primarily for teachers and visitors so there won't be much action at that entrance because there is only about 25 teachers. He said this entrance on Epworth Road is the parent drop off; the students will enter on the sidewalk and the parents will exit onto Lincoln.

The President said so it will be one way.

Jim Morley Jr. said this portion is one way through here; the exit here is a two way traffic exit. He said the students will park here, they have a parking agreement with Epworth United Methodist Church, so the students will come off of Lincoln Avenue and there is an island that forces them to peel off and go to the student parking lot. He said so you will have parents dropping off and exiting onto Lincoln; students entering from Lincoln, parking and then coming back out onto Lincoln; teachers and visitors coming off of Lincoln, parking, and then technically they could come out either way.

Amanda Mosiman asked what the building in the back was, the green and orange one.

Jim Morley Jr. said those are tennis courts. He said the blue represents the school; the north half is the educational portion of the school and the south half is the gymnasium; you can see the track. He said there is a retention basin and all of the drainage basically drains down to the bottom and that water is piped up and over to I-69. He said if they ever do a future expansion they have room to do that.

Richard Reid asked what the size of the building was.

Paul Bair said it is about 43,000 square feet counting both the academic side and the gym, and it is two stories.

Jim Morley Jr. said the subdivision itself is in multiple lots because EVCS is receiving ground from Epworth United Methodist Church and Crossroads Church and some of the ground is being transferred to EVCS by deed, some of it is a short term lease and some of it is a long term lease. He said so they are trying to help define some of those things and split it into the different lots to make describing those easier. He said it is a great project and a fabulous location for the school. He said they pull students from Newburgh, Evansville, and Henderson so that is as good of an access as you are going to get to serve that broad of a range.

Richard Reid asked if they are going to build a stadium.

Jim Morley Jr. said if the fund raising goes well then yes.

Richard Reid asked if that was a soccer field.

Jim Morley Jr. said yes.

Richard Reid asked if they would be able to kick the balls out to the road.

Jim Morley Jr. said maybe if they had a really good foot maybe but most likely not. He said there is fundraising process going on now and so far it is going good. He said they do not want to take on a lot of debt so they are trying to get the fundraising hammered out before they start moving dirt.

The President said so they have 200 students; how many vehicles are they anticipating.

Jim Morley Jr. said they come in different ways; some come by transfer bus from different schools, some are dropped off, and some drive themselves. He said the Institute of Traffic Engineers manual basically says in a school if you are coming in a car you get a point. He said one student creates .43 cars so roughly they average 2 students per car and that is what the ITO uses.

The President asked if they think most will be coming down 66 to Epworth.

Jim Morley Jr. said they really come from everywhere. He said there are not many that will come from south Epworth. He said they have a map of where all of the different households are of where there families live so we took that map and said for example this group here, about 30% would come this way or that way. He said so they took that and assigned their distribution and looked at all of the intersections and assigned right turns and left turns and did a pretty thorough traffic analysis.

The President said his point is if they are coming down Lincoln and turning onto Epworth going north, it won't take a whole lot of cars to back that up so his suggestion would be to utilize....he would if he were going here; go up to the light and come back down so he could make a right turn.

Jim Morley Jr. said the MPO has a thresh hold for when they start looking a required turn lanes at the peak hour and they have never hit that. He said they did want them to do the painting though so they agreed to do that stripping but they never hit the 30 turns that are required to install a turn lane.

Richard Reid asked if Epworth Church had an event where would the school park.

Jim Morley Jr. said they have agreements with both churches but the agreement they have with Epworth gives them solid access to that. He said Crossroads remains pretty active throughout the day but Epworth doesn't have as much activity during the day so their agreement with them gives them those parking spaces.

Richard Reid said you might also point out the detention basin is actually on Crossroads property.

Jim Morley Jr. said yes it is. He said where the lake is will continue to be owned by Crossroads so EVCS will have a lease.

Amanda Mosiman asked if it will have water in it all of the time.

Jim Morley Jr. said yes, it is a wet basin.

Amanda Mosiman asked if they had a maintenance agreement with all of the property owners.

Jim Morley Jr. said yes they have an agreement in a monster book that assigns maintenance who is responsible for what. He said luckily they have a great working relationship but in case they didn't someday, it is all in writing.

Doris Horn asked if when they get the funding for the soccer fields and have games will that cause congestion in traffic when they have another 200 or so cars there.

Jim Morley Jr. said currently EVCS use this ground for soccer fields. He said typically release time for schools is different than release time for soccer games so for something like a game or performance, those are considered point loads on a traffic system so you typically don't....they are kind of one offs because they happen on a random basis. He said they usually don't occur during peak hours which you typically base your traffic systems on, occurs between 7:30-8:30 in the morning and between 4:30-5:30 at night and that is almost never at the same time as a soccer game or choir performance. He said when they get out at 7 at night they are a point load on the system but by then the point system is cleared out; most people are already home having dinner or whatever. He said the point load does not occur simultaneously with the peak hour so as a general rule you don't take those point loads in the same consideration with the school getting in and out of session and that is something that was considered in their traffic study.

The President asked for questions from the Board or remonstrators for or against the project. Seeing none he called for a motion on the sidewalks.

Jim Morley Jr. said both of those portions of Lincoln and Epworth were recently done and nobody was doing sidewalks and bike lanes at that time and they don't anticipate those being upgraded again at that time so if they put sidewalks in they will be return sidewalks...

The President said they will be the innovators of what's to come.

Jim Morley Jr. said that is one way of looking at it. He said at this time they are unaware of Lincoln or Epworth being upgraded again so therefore they ask for a waiver so they are not the only ones putting in sidewalks.

The President asked for the Boards wishes.

Bill Byers asked if they had adequate space for future growth.

Jim Morley Jr. said yes, Evansville Christian School wants to get to a high school level. He said the expansion is shown on the site plan as phase two. He said they were careful when picking this location to allow them to expand but to also not buy more land than they needed.

The President asked what their projected number for the expansion was.

Paul Bair said the expansion is the yellow part, which would expand the capacity to a total of 500 students.

Richard Reid made a motion to waive the sidewalk requirement. The motion was seconded by Bill Byers. Amanda Mosiman opposed the motion. The President call for a roll call; Mrs. Rector performed a roll call; Jeff Willis, yea; Richard Reid, yea; Brad Overton, neigh; Amanda Mosiman, neigh; Doris Horn, yes; Bill Byers, yes, and Guy Gentry, abstained. Mrs. Rector stated they have four votes in favor. The President stated the motion carries.

Brad Overton made a motion to approve the primary plat with all of the amendments with the street and drainage. The motion was seconded by Doris Horn and unanimously carried.

### **REZONING PETITIONS:**

**PC-R-16-02- PETITION OF MAKEN CORPORATION** by Daniel J. Ubelhor, Pres. OWNER: Same. to rezone 71.41 acres located on the north side of Oak Grove Road a distance of 3000 ft. E of the intersection of Anderson Rd. (W600) and Oak Grove Rd., Boon Twp. from “M-2” General Industrial to “R-1” One Family Residential. *Complete legal on file. (Advertised in The Standard March 3, 2016)*

Daniel Ubelhor and Jim Morley Jr. were present.

Mrs. Rector stated that we have all green cards. She said the minimum lot size is 6000 s.f. with a 60’ requirement at the building line. She said the Comprehensive Plan has no plan for this area. She said the property is currently vacant and zoned “M-2” General Industrial; this zoning was done in 1986. She said the surrounding zoning and land use is as follows; property to the north is zoned Agricultural with a Special Use being Friedman Park; the property to the West is zoned “R-1” being Waterstone Village, a residential subdivision; the property to the East and South are zoned “M-2” and are vacant. She said there is no flood plain on the property and they will have access to the new Oak Grove Road. Mrs. Rector said their stated use is a 199 lot residential subdivision, which would be allowed in the R-1 zoning. She added that residential is not allowed in industrial zoning and the application is in order.

The President asked if they had anything to add to the staff report.

Jim Morley Jr. said this is just another opportunity for Warrick County to grow, increase roof tops, and increase tax dollars and they ask for their approval.

The President said he thinks the new Oak Grove Road is very nice.

Jim Morley Jr. said this property fronts on the new Oak Grove Road. He said Maken Corporation owns quite a bit of property out there and it was all zoned "M" because the thought was that the industrial park would grow so this is actually a down zoning from manufacturing to residential because the demand for residential is more than the demand for industrial properties. He said it will be a nice project and a nice contribution to the county.

The President asked where the overflows for those two lakes were.

Jim Morley Jr. said there is a pipe under where they filled that they put in when they built the road but they could not find it so they put a new pipe in, so there are two pipes under that road. He said the one they put in is an equalizing pipe, and there is a pipe under water. He said that lake drains down to the industrial park and then back up towards Victoria National.

The President asked if there was a spillway.

Jim Morley said there is a pipe at the bottom that goes underneath a service lane that goes to an open ditch, then to a pipe underneath Oak Grove Road, then back to an open ditch, then back to a pipe underneath a gravel drive....

The President asked for questions from the Board. Seeing none he asked for remonstrators for or against the project.

John Greenwell approached the podium. He said he lives in Waterstone Village, number 20. He said they do not have a problem with Warrick County growing, their problem is when they purchased their homes they were told that there was not going to be anything on the other side of that lake; that it was Friedman Park and a wildlife area so that was a big selling point for them. He said they don't know what the plans are for that hill across the lake but that is a monster hill and the Ubelhors' do a great job maintaining that right now and it is very nice back there with wildlife. He said he does not think any of them have a problem except for maybe schools. He said he knows Castle School District is extremely overloaded so he does not know where those families and kids would go to school. He said he has talked to several other homeowners and they all just have a problem with the houses that will butt up to the backside of that lake. He said they have a problem with, and correct him if he is wrong but they heard that Jagoe is going to build homes back there.

Danny Ubelhor said he has not worked out a deal with anybody yet.

John Greenwell said that is a rumor that is going around. He said are concerned with the Jagoe Homes that are coming into that area and their property values and that they are building slab homes. He said they are also concerned with the backside of that lake and how it is going to

work the park. He said he would not like to be approved as is. He said doesn't have a problem with the houses back in the other area but they are worried about along the backside of that lake.

Mrs. Rector said this is the just rezoning and they will get additional notice when they come back and do a plat. She said they will see how the lots are going to be laid out and how they will have the drainage and streets when the subdivision plat is filed. She said this is just the rezoning petition to take the property to a residential zoning.

Mr. Greenwell said if that is the case then he would recommend they don't approve the zoning.

Richard Reid asked if he likes the "M-2" zoning that it is right now.

Mr. Greenwell said he doesn't understand.

Jeff Willis said currently this property is zoned with the heaviest manufacturing zoning the County has.

Mr. Greenwell said they just love the wildlife back there.

Richard Reid said it is zoned manufacturing and someone could put up a large plant back there with large smoke stacks right now.

Mr. Greenwell said it is what it is then if that happens he would sell his house very quickly but right now they love the wildlife; the deer and coyotes. He said people walk the trails back there and they would like to know more how this is going to mix with Friedman Park.

Laura Mangold, 5836 Waterstone, said she was assured when she chose her home that nothing else was going to be built on the other side of the lake. She said that was a huge part of her decision to purchase there. She said she had looked in other parts of the county because she wanted a country feel but has been in Newburgh since 1969. She said she has seen a lot of the growth there; not always to the betterment of the population. She said she is very concerned they will shave down the hill and destabilize her land. She said she worries about it being former mined ground and if this will cause her house to sink if they start digging around there. She said she is very distressed by this because she enjoys watching the deer and other wildlife and if they develop this ground she will no longer be able to enjoy her life in her home. She said she feels like her privacy is being violated and she is going to have to move. She said she hopes there will be some sort of easement or some kind of greenway on the other side of the lake so she won't have other people looking right into the back of her home. She said the hill is quite a bit steeper than her house and they have to have tractor tires on their lawn mower to mow so she can't see how anyone can maintain it unless they shave the hill down.

Mrs. Rector said they all keep saying they were "assured" nothing would be there; who were they "assured" by because that never came from the Plan Commission.

Ms. Mangold said she can't recall if it was the realtor or several neighbors but she was never aware that it was zoned industrial.



Mrs. Rector said a lot of people don't know.

Ms. Mangold said she just fell in love with the house with the beautiful lake and the green behind it and now she feels it can be ruined.

Mrs. Rector said she has worked for the Plan Commission for a long time and Oak Grove Road has been intended to go through there for years. She said Kenny Ubelhor talked about extending it through the pit so that isn't something that was just decided this year.

Ms. Mangold said she also has a concern about Friedman Park and the current situation with Anderson Road being just a two lane road and if they build this big amphitheater and park she is worried about the traffic by her subdivision.

Mrs. Rector said the access to the park will be off Oak Grove Road and there will be no access to the new park off Anderson Road.

Ascertaining there were no other remonstrators present, the President called for rebuttal.

Jim Morley, Jr. said Maken Corporation owned this property long before they every developed Waterstone Subdivision and this property was zoned manufacturing long before they developed the subdivision. He said he has worked with Maken for several years and he can assure them that Maken would never have said this property would never be developed. He said they bought all of this property 20-30 years ago for the purpose of development. He said while he is sympathetic to their concerns, he would say whoever told them it would never be developed told them a fib. He said the access to Friedman Park does come through this property they are asking to rezone. He said Maken Corporation is donating that right of way; a lot of times when the County does a road project they have to pay for the right of way but Maken Corporation is donating the right of way. He said there will not be any entrance off Anderson Road for the park.

Mr. Morley said the Oak Grove Road was a joint public/private partnership in which Maken Corporation donated the right of way and did the dirt work and pipe work and so they have invested heavily in the project. He said they have invested heavily in this area recently as well as years ago. He said they brought a force main for several miles just to create sewer in this area when there was nothing here and so they have a large investment here and they would be foolish to put something in that would be a negative because they own the property to the south and the east of this. He said to put in anything other than a first class facility they would be shooting themselves in the foot. He said they have no intention of doing anything other than a quality project. He said some of the people here tonight live in one of their projects and he thinks they are well aware of what they put on the market. He said any work done on this project will be done on the opposite side of the lake from the Waterstone Village Subdivision and wouldn't have any effect on their property as far as destabilization goes. He said the body of water will always be between them. He said this is a good project from a residential standpoint and from a park standpoint and it is good for Warrick County for it to go from industrial to residential. He

said the Warrick Research and Industrial Center has proven to be a valuable place for people that need manufacturing lots and he guesses it could be left manufacturing but the goal is to put in residential homes which would be more fitting with Friedman Park and if he lived there he would rather have residential across the lake from him rather than manufacturing. He said they think this is in good keeping with the area and with Friedman Park and ask for approval.

Guy Gentry asked they aren't looking at the plat tonight but they did bring up a question about layout and grading of the hill. He said they do have a conception of 199 lots so they have somewhat of an idea how it will lay in there. He said he drives past there frequently but he can't visualize the hill they are talking about. He asked if there is considerable grade work that needs to be done.

Jim Morley, Jr. said as a general rule in any subdivision, reclaimed ground is the same, no one wants to cut 20-40 feet into the ground because you never know what you will get into and so he wouldn't anticipate monster cuts or fills in this area. He said he would anticipate there will be rear yards that back up to the lake for the same reason people all over Warrick County like living on a lake. He said when Waterstone Village was platted, the lake lots were the first to sell because they are more desirable lots. He said he would anticipate those lots will be deeper than the other lots in the subdivision because of that elevation change. He said the lake lots in Waterstone are also deeper and you build your house on the level part and you yard slopes down to the lake. He said there is no reason to think this won't be a nice project and it is common in subdivisions all over Warrick County to have houses backed up on both sides of a lake as they are in Lakeridge Crossing and Blue Lake.

Amanda Mosiman said he mentioned that Maken Corporation was donating the easement for Friedman Park and was wondering where that was going to be.

Jim Morley Jr. said it basically runs up and wanders around to the park. He said they wanted to have a flowy road going into the park. He said that right-of-way is where Maken Corporation and the Redevelopment Committee have come together and come up with a great solution.

Mrs. Rector asked if that plat had been filed to go to the hearing next month.

Jim Morley Jr. said no, they are waiting for the rezoning to be approved before they file the primary.

The President said there was ten minutes left if anybody had a rebuttal.

Dale Cardinal approached the podium. He said he lives on lot 20. He said when he purchased his house 10 years ago from Maken, they did tell him that there would be nobody living behind them across the lake. He said when he looked at it he didn't think anybody could build behind it the way his lot sits on the corner. He said so somebody did tell him that.

Brad Overton stated that he could sympathize with having open areas around your residence because where he lives there is an open 6 acres that is currently for sale and he is really

concerned about what is going to happen to that ground. He said he would rather be dropped off in the middle of nowhere but his wife and children don't see it that way. He said on this one, if this was something that was going from agricultural to residential, a higher zoning, then he would have stronger feelings against it; he can definitely sympathize with their concerns on this but to take it from the industrial zoning down to a residential zoning, he is a lot more of a fan of that. He said at that point you are least getting that protection instead of having a manufacturing facility coming in there. He added that he can definitely understand their plight.

Richard Reid asked Attorney Doll his opinion of step down zoning.

Attorney Doll said it is totally applicable; it's a less intensive use. He said it is easier to get approved and this was already approved for manufacturing. He said this is a down zoning that is less intrusive and it is single family zoning. He said the only less intensive zoning than this is agricultural or CON.

Mrs. Rector said you could put a subdivision in those zonings too, they would just be bigger lots.

Attorney Doll said it is a down zoning, it is clearly permitted, and it is a less intrusive use than what currently exists.

John Greenwell said he hopes what they talked about doesn't bring any ill will. He said they like the Ubelhors, they built a great subdivision and they love the homes in there. He said they do not like the Jagoe homes that have been going in there but the Ubelhor homes a great. He said he understands the down zoning to residential and they don't have a problem with that but they are still worried about that hill on that back of that lake. He said if there is another meeting to discuss that then he will do that and he does not want any bad feelings with the Ubelhors because they like what they do.

The President said he might suggest that before the plat they have a meeting to discuss those issues. He asked the Board how they would like to proceed.

Doris Horn made a motion for a positive recommendation to the County Commissioners for PC-R-16-02 from an "M-2" General Industrial to an "R-1" One Family Zoning.

The motion was seconded by Amanda Mosiman and unanimously approved.

The President called for a motion to waive the rules of procedure to allow the rezoning to go to the next County Commissioner's meeting on March 28, 2016.

Amanda Mosiman made a motion to waive the rules of procedure.

The motion was seconded by Doris Horn and unanimously carried.

Amanda Mosiman left the meeting at 7:00pm.

## **AMENDING ORDINANCES TO THE COMPREHENSIVE ZONING ORDINANCE:**

AN ORDINANCE TO AMEND ARTICLE XIII NEIGHBORHOOD COMMERCIAL – “C-1” DISTRICT SECTION 3 PERMITTED USES SUBSECTION (8) OF THE COMPREHENSIVE ZONING ORDINANCE IN EFFECT FOR WARRICK COUNTY, INDIANA.

The purpose of this ordinance is to remove package liquor stores as a permitted use. (*Advertised in The Standard March 3, 2016*)

AN ORDINANCE TO AMEND ARTICLE XIV COMMUNITY COMMERCIAL – “C-2” DISTRICT SECTION 3 PERMITTED USES SUBSECTION (9) OF THE COMPREHENSIVE ZONING ORDINANCE IN EFFECT FOR WARRICK COUNTY INDIANA.

The purpose of this ordinance is to add restaurants serving alcoholic beverages consumed on premises and package liquor stores as a permitted use. (*Advertised in The Standard March 3, 2016*)

Mrs. Rector stated these are the two ordinances they told her to advertise. She said one takes packaged liquor stores out of the “C-1” and the next one puts it into the “C-2” district also listing restaurants serving alcoholic beverages.

Attorney Doll said so there is consistency. He said if they will remember this issue came up on a former rezoning along SR 66 where the former Zeidler’s flower shop was.

Brad Overton made a motion to approve.

Jeff Willis asked if this is approved would somebody be able to come in the get a variance for a liquor store in a “C-1”.

Mrs. Rector said no, you cannot get variances on uses.

Attorney Doll said it doesn’t affect anybody that already has a package liquor store in a “C-1”, they would be grandfathered in. He said it would just affect new applicants going forward they would have to have “C-2”.

Jeff Willis said what if somebody already bought the property in a “C-1” with the intent to build a packaged liquor store.

Attorney Doll said unless they already have an application on file now they would not be permitted to sell alcohol in a “C-1”.

Richard Reid asked what if you bought a property that already had a liquor store on it in “C-1”.

Attorney Doll said it would be a pre-existing permitted use and it would not be changed so it would be allowed to continue. He said it could be sold, other people could buy it and it could go on as long as it doesn’t expand its use.

Mrs. Rector said they could not think of any in the county in a “C-1.” She said normally they are not in a neighborhood and you can’t have them in the county anyway, they have to be in an incorporated area.

Attorney Doll said that it is true, that is part of state permit requirements.

The President stated we have a motion on the floor, do we have a second.

Richard Reid seconded the motion. There were four favorable votes and one neigh, being Jeff Willis; therefore the motion carried.

Mrs. Rector asked if that was a vote on both of them.

Attorney Doll said yes.

**OTHER BUSINESS:**

None.

**ATTORNEY BUSINESS:**

Attorney Doll said he needs a quick motion. He said they currently have a lawsuit pending against Tom Key and his understanding is that Mr. Key has agreed to cooperate with the city demolition program that is being operated by the city of Boonville.

Jeff Willis asked if this was the one off of Lovers Lane.

Attorney Doll said yes. He said it has always been their policy that they do not tear down houses and he thinks using the definition of a house is pretty loose in this case but before he dismisses the lawsuit because he has signed the papers to have his property cleaned up, he would like to have a motion to dismiss the lawsuit.

Brad Overton made a motion to dismiss the lawsuit.

Jeff Willis asked if they could continue it until it gets cleaned up.

Attorney Doll said they have talked about that, they understand they have signed the paperwork but they do not know how soon it will be done.

Mrs. Rector said she thought a couple of meetings ago they decided that if Mr. Key signed the papers with Boonville they would dismiss the suit because they were no longer involved in it.

The President agreed.

Attorney Doll said the only thing is that the court keeps calling him up on its docket and wants to know what they are doing with it and he keeps asking for an extension and he can keep doing

that but if he dismisses it without prejudice he can always refile the suit. He said he does not think that will be necessary because they did what they said what they were going to do. He said they meet with the people outside of court, introduced them, an agreement was reached and the papers have been signed.

The President asked the Board what they would like to do; they have a motion on the floor.

Doris Horn seconded the motion. The motion carried unanimously.

### **EXECUTIVE DIRECTOR BUSINESS:**

Mrs. Rector stated they approved in February the new Rules of Procedure for 2016. She said she was discussing plats and notices with Attorney Doll today and found a discrepancy on page 11 under abutting property owners. She said our Ordinance says 500 feet and our Rules of Procedure says 1000 so she has changed it to 500 to make it match the Ordinance. She said on page 14 under II she changed the 1000 to 500 also to make them all the same. She said because it wasn't clear on notices when it came to vacating or re-platting or amending or subdividing a lot in a plat, they discussed C on page 15.

Attorney Doll said when you have a plat that has been approved and you have someone that wants to come in and change lots in a subdivision and re-plat it. He said the question is who has to be notified of that. He said his predecessor was under the opinion many years ago was that you had to have the consent of everybody in that addition of that subdivision; consent in writing. He said he thought that was overly burdensome and probably undemocratic so what they have been doing is giving notice to people in that section of the subdivision and if you don't like it you can come up and we can discuss it. He said it has been called into question so going forward they have decided to look at the state statute, they copied the re-plat and amendment portion out of title 36 and made it so when you are trying to re-plat or amend a portion of a plat you must give notice to the landowners in the addition of the abutting property owners of the hearing. He said so if he lives in the same section of subdivision that somebody wants to re-plat he has the right to come up and express his opinions if he wants to. He said there is a 2003 case that supports this sort of. He said it is Brown County Board of Zoning Appeal vs Boop and they determined that public reliance on platted documents is an essential right and therefore if you have an essential public right you probably should have notice.

Mrs. Rector said as you see you have a set in your folder that says it has been amended on this 14<sup>th</sup> day of March so she needs them to make a motion to amend the Rules of Procedure.

Jeff Willis made a motion to amend the Rules of Procedure.

Brad Overton seconded the motion and it was unanimously carried.

Being no other business the President called for a motion to adjourn. Richard Reid made a motion to adjourn. Seconded by Brad Overton and unanimously carried. Meeting adjourned at 7:13p.m.

---

Guy Gentry, President

ATTEST:

---

Sherri Rector, Executive Director